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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,086	03/03/2004	Challen W. Waychoff II	24379-0002-U1	4895

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MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

EXAMINER

RANADE, DIVA

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

06/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/792,086

Applicant(s)

WAYCHOFF, CHALLEN W.

Examiner

DIVA RANADE

Art Unit

3763

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) 12 and 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statements(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 14, 16, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,025,778 to Silverstein et al and further in view of U.S. Publication 2002/0058914 to Henniges et al.

- a. Claims 1, 2, 14, 16, 17 and 18: Silverstein shows an endoscope capable of performing procedures within the colon (See Column 12 lines 18-20). Silverstein shows one tube capable of having multiple lumens due to folding known as potential channels (See Column 5 lines 35-55) and therefore capable of having a first and second passageway wherein the dividing wall is between the two lumen. Silverstein discloses that the tube is capable of being attached to pressurized fluid and a nozzle head to expel fluid at a higher velocity in a wash jet like fashion (See Column 6 lines 59-68 and Column 7 lines 1-12). Individual channels of the same tube may provide individual functions such as one channel being a wash channel and another being a suction channel (See Column 8 lines 55-67). Silverstein suggests that the channels may be formed around the insertion rod wherein the insertion rod contains a recessed groove or stabilizing notch as in claim 17 to aid in guiding the tubing. (See Column 6 lines 5-30).

- Silverstein teaches the use of tubing containing multiple lumens being used with the recessed insertion rod suggesting that the insertion rod may contain of the potential channels in the groove with being inserted into the second chamber as in claim 2). Furthermore, Silverstein teaches a planar grasping member (72 in Fig 10). Silverstein teaches that the device is capable of being attached to a multitude of medical devices, specifically a fluid inlet line (See Column 6 lines 59-65) and potentially a drainage line as will is one of the potential channels was used for effluent fluid from the suction channel as taught in (Column 7 lines 34-56) as in claim 14 capable of communicating with separate potential channels as suggested by Silverstein as in claim 18. Silverstein does not the apertures on the nozzle head are in communication with only one of the channels. Henniges shoes a nozzle head connected to two channels on for infusing a fluid and another for suctioning of the fluid. The nozzle head comprises of a plurality of u-shaped apertures capable or being shaped in another desirable way. It would have been obvious to one skilled in the art during the time of the invention to modify the device of Silverstein by attaching the nozzle head of Henniges in order to allow one channel to communicate fluid tot he nozzle head while allowing another channel to collect the effluent without mixing the two.
3. Claims 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent 5,025,778 to Silverstein et al in view of U.S Patent 4,842,583 to Majlessi.

b. Claims 15 and 19: Silverstein does not teach a stem from directly on the housing itself. Majlessi shows a housing comprising two channels wherein the stem is connected to a fluid source and is in communication with the first channel. It would have been obvious to one skilled in the art during the time of the invention to modify the device of Silverstein by moving a stem depicted in the handle of Silverstein to the housing as shown in Majlessi in order to allow one channel to permanently provide one function; to allow fluid flow.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 14, 15, and 16-19 have been considered but are moot in view of the new ground(s) of rejection. Silverstein teaches multiple channels integrally formed within a housing wherein the wall dividing completely separates the channels. Silverstein teaches a "keyed" design for an insertion rod. Henniges teaches a nozzle head used for irrigation with separates the two channels with a plurality of circumferential apertures on the anterior portion thereof. Silverstein suggests the use of a nozzle head to provide a water jet like function and therefore would provide motivation to modify the device of Silverstein with the nozzle head of Henniges. As stated in the above rejection, Silverstein in view of Henniges and Silverstein in view of Majlessi better disclose the applicant's inventive concept.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIVA RANADE whose telephone number is (571)270-7456. The examiner can normally be reached on M-F, 7:30-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (571) 272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DIVA RANADE/
Examiner, Art Unit 3763

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763